

BIDDING PROCEDURES

*Sale of Golf Course Assets of
Mountain Run Golf, Inc., and Mountain Run, LLC
Subject to Bankruptcy Court Approval*

A. *Bids.* The debtor will accept bids for purchase of its Golf Course assets through its counsel, DOUGLAS A. SCOTT, PLC, as provided herein. The debtor will seek approval of the highest or best offer at a hearing to be conducted by the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division (the “Court”) on June 2, 2010, or at the earliest date thereafter as the Court may direct (the “Approval Hearing”).

B. *Assets.* The assets to be sold include the Golf Course improvements, an 18 hole bent grass course with land for an additional 9 hole addition, certain real property, a pool house, snack bar, pro shop, leases, equipment and supplies, inventory, prepaid expenses, books and records (except tax records), customer list and certain intellectual property (the “Golf Course Assets” or “Assets”). A more complete list of the assets may be found as an exhibit to the Asset Purchase Agreement (“APA”).

C. *Initial Bid.* The initial bid has been made in the amount of Two Million Dollars (\$2,000,000.00 USD)(“Initial Bid”).

D. *Minimum Bid.* A Minimum Bid for the Assets (the “Minimum Overbid” or “Minimum Overbids”) for the Assets has been established in the amount of the Initial Bid plus One Hundred Thousand Dollars (\$100,000.00 USD) *plus* a further bid in increments of Twenty Five Thousand Dollars (\$25,000.00)(collectively, the “Bid” or “Bids”). A person or entity that makes such a Bid is a “Bidder”.

E. *Qualification to Bid; Submission of Written Bids.* All Bids must be in writing and received by debtor’s counsel not later than 5:00 p.m. Eastern Daylight Time on the 27th day of May, 2010, or upon such date and at such time as the Court may direct (“Bid Deadline”). Each such Minimum Overbid must include:

(i) a duly executed asset purchase agreement substantially similar to the APA (“Bidder’s Purchase Agreement”) except that:

- (a) the Bidder shall be substituted for the Purchaser in the APA;
- (b) the proposed Minimum Bid shall not be less than \$2,125,000.00 USD.

(ii) made by a Bidder that provides satisfactory Financial Evidence¹ to the Seller that it is:

- (a) financially able to consummate the transactions contemplated by such Initial Bid; and
- (b) able to consummate the transaction on the date and on the terms contemplated by the APA.

(iii) accompanied by an official bank check or wire transfer in an amount not less than Twenty Thousand Dollars (\$20,000.00 USD)(the “Deposit”).

(iv) each Bid must be delivered to the debtor’s counsel, with a copy delivered to the Lender’s counsel, so as to be received on or before the Bid Deadline:

- (a) Debtor’s Counsel:

DOUGLAS A. SCOTT, PLC
1805 Monument Avenue, Suite 311
Richmond, Virginia 23220
☎ 804.257.9860

- (b) Lender’s Counsel:

Vernon Inge, Jr., Esquire
LeClair Ryan, A Professional Corporation
Federal Reserve Bank Building
701 East Byrd Street, Sixteenth Floor
Richmond, Virginia 23219
804-343-4095

F. *Additional Bid Requirements.* Each Bid must also clearly state that the Bidder desires to acquire the debtor’s Assets on substantially similar terms and conditions

¹ “Financial Evidence” shall mean information sufficient for the debtor to make an informed judgment as to the ability of the Bidder to perform its obligations pursuant to its Bid and shall include a letter from a financial institution demonstrating the Bidder’s financial wherewithal to immediately consummate the transaction contemplated by its Bid, or other such evidence satisfactory to the debtor.

as those contained in the APA and must state the proposed purchase price, which may not be less than the amount of the Minimum Overbid.

G. *No Financial Contingencies.* Any and all Bids must be firm offers and shall not contain any contingencies as to the validity, effectiveness or binding nature of the Bid, including, but not limited to, contingencies for financing, due diligence, or inspection. All Bids must substantially conform to the terms and conditions contained in the APA. A copy of the APA is attached to debtor's Motion to Approve Bid Procedures or may be obtained from the debtor's counsel, at the notice address above in ¶ E (iv)(a).

H. *Qualifying Bids.* Any Bid submitted in accordance with these Bidding Procedures shall be deemed a "Qualifying Bid". Each Bidder submitting a Qualifying Bid shall be a "Qualified Bidder".

I. *Non-Qualifying Bids.* No Bid shall be considered that does not conform in all material respects with these Bidding Procedures and the APA, and no such Bid shall be a Qualifying Bid.

J. *Due Diligence.* Qualified Bidders shall have reasonable access to the debtor's management and employees, and to the records of the debtor (other than tax records), prior to the Bid Deadline for the purpose of conducting due diligence. However, any Qualified Bidder who wishes to do so must first enter into a nondisclosure agreement with the debtor.

K. *No Representations.* The Assets shall be sold "AS IS", and "WHERE IS", and WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING BUT NOT LIMITED TO, FITNESS OR CONDITION. No Bid shall be deemed a Qualifying Bid that provides otherwise.

J. *Bankruptcy Court Jurisdiction.* All Qualified Bidders, by making a Bid, have submitted to the exclusive jurisdiction of this Court with respect to the proposed sale of the Assets, including but not limited to, the Bidding Procedures, the solicitation and evaluation of Bids, the Auction, and the Approval Hearing.

K. *Approval Hearing.* At the Approval Hearing to be held on June ___, 2010, at ____ a.m./p.m. o'clock, the debtor shall seek approval by the Court of the sale of the Assets to the Successful Bidder. The sale of the Assets shall be subject to the entry of an Order (the "Sale Order") by the Court:

- (i) approving the sale of the assets to the Successful Bidder and the assumption of the leases and executory contracts listed in the APA pursuant to 11 U.S.C. § 365;
- (ii) containing a finding that the successful Bidder is a good faith purchaser pursuant to 11 U.S.C. § 363(m); and
- (iii) directing that the sale order be effective immediately pursuant to FED.R.BANKR.PROC. 6004 and 6006.

J. *Auction Process.* The auction of the Assets (the “Auction”) will be conducted at LeClair Ryan, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219 on June 1, 2010, at 11:00 a.m. o’clock, or on such other date and time as the Court may direct. Only Qualified Bidders may participate in the Auction. The Auction shall commence with the debtor’s announcement of the Initial Bid and any other Qualifying Bids. The Auction will then be open for any other higher or better Qualifying Bids from any Qualified Bidder. The first such Qualifying Bid above the Initial Bid submitted at the Auction shall be at least Twenty Five Thousand Dollars (\$25,000.00 USD) higher than the higher of the Initial Bid plus \$100,000.00 or the highest of any Qualifying Bids. Subsequently, Qualifying Bids may only be submitted in increments of not less than Twenty Five Thousand Dollars (\$25,000.00 USD) over the then highest or best Qualified Bid, as determined in the debtor’s sole discretion; *provided, however,* the debtor may increase or decrease the amount of the incremental bid amount as it deems appropriate during the course of the Auction. Any Qualifying Bid at the Auction must include substantially the same terms and conditions as contained in the APA.

K. *Conclusion of Auction.* At the conclusion of the Auction, the Qualified Bidder submitting the highest or best Bid, as determined in the sole discretion of the debtor, shall be the “Successful Bidder”. The Qualified Bidder submitting the next highest or best Qualifying Bid, as determined in the sole discretion of the debtor, shall be the “Successful Backup Bidder”. The debtor shall inform all Qualified Bidders at the Auction of the Qualifying Bid that debtor will take before the Court for approval at the Approval Hearing.

L. *Bids to remain open; Deposits Refunded.* All Qualifying Bids made before the Approval Hearing shall, notwithstanding the debtor’s acceptance of another Qualifying Bid, remain open and irrevocable until the earlier of: (a) ten (10) days following the conclusion of the Auction or (b) the successful conclusion of the Closing (defined below), and may during that period be accepted and consummated without further Order of the Court in the event that the sale to the Successful Bidder or to the

Successful Backup Bidder is either not approved by the Court or is not consummated at the Closing. Deposits made by Qualifying Bidders that are not the Successful Bidder or the Successful Backup Bidder shall be returned promptly following the conclusion of the Approval Hearing. The Deposit of any Successful Backup Bidder shall be retained no longer than the third business day following the completion of the Closing in the event another Successful Backup Bidder becomes the Successful Bidder. The Deposit submitted by the Successful Bidder shall be credited against the total purchase price to be paid by the Successful Bidder.

M. Default by Successful Bidder. After the entry of an Order by the Court approving the sale of the Assets to the Successful Bidder, the Successful Bidder shall be in default on its Bid if it fails to consummate the purchase of the Assets within two (2) business days following the termination of the ten (10) day appeal period allowed for an appeal of the Approval Order, providing that no timely stay pending appeal has been ordered by the Court. In such event, such Bid shall be void. In such event, the Successful Backup Bidder shall close the contemplated Asset sale transaction within three (3) business days from receipt of written notice from the debtor of the failure of the Successful Bidder to do so. In the event that the Successful Backup Bidder does not timely close the Asset sale transaction, such Bid shall be void, and the next highest or best Qualifying Bidder shall close the contemplated Asset sale transaction within three (3) business days from receipt of written notice from the debtor of the failure of the Successful Backup Bidder to do so. This process shall continue until no further Qualified Bidders remain other than the maker of the Initial Bid. In such case, the debtor shall consummate the Asst sale transaction with such party pursuant to the terms of the APA, including the Initial Bid as set forth herein, as soon as reasonably possible.

N. Closing. The closing of the Asset sale contemplated herein following the conclusion of the Approval Hearing (the “Closing”) shall occur on or before June 15, 2010, subject to the entry of such Orders of the Court as are necessary and appropriate.

O. Additional Information. Questions regarding these Bidding Procedures may be directed to counsel for the debtor, at the contact information above.